

ASSEMBLY BILL

No. 2754

Introduced by Assembly Member Chan

February 24, 2006

An act to amend Sections 1266 and 1279 of, and to add Sections 1279.1, 1279.2, and 1279.3 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2754, as introduced, Chan. Health facilities.

(1) Existing law provides for the inspection, licensure, and regulation of health care facilities by the State Department of Health Services, including, among other facilities, general acute care hospitals, acute psychiatric hospitals, special hospitals, and long-term health care facilities, some of which are collectively referred to as nursing homes.

Existing law establishes licensing and annual renewal fees for health facilities, and requires the department, by March 1 of each year, to make certain information regarding the methodology and calculations used to determine these fee amounts available to interested parties, upon request.

This bill instead would require the department to make this information available by February 17, and would further require the department to make the information available to the budget and relevant policy committees of the Legislature without the need for a request. The bill would revise requirements relating to the department's preparation of that staffing and systems analysis.

(2) Existing law, prior to the establishment of these fees, requires the department to prepare annually a staffing and systems analysis to

ensure efficient and effective utilization of the fees collected and proper allocation of departmental resources.

Existing law requires the department to conduct periodic inspections of health facilities for which a license or special permit has been issued, to insure the quality of care. Existing law exempts certain health facilities that are certified to participate in the federal Medicare and Medicaid Programs from certain inspections. Existing law also authorizes the department to contract for outside personnel to perform inspections of health facilities as the need arises.

This bill would require the department to inspect for compliance with state law and regulation during state and federal periodic inspections, notwithstanding any other provision of law.

(3) This bill would require the department to conduct an onsite inspection or investigation within 48 hours or 2 business days of a complaint involving the threat of imminent danger of death or serious bodily harm at a general acute care hospital, an acute psychiatric hospital, or a special hospital. The bill would require the outcome of investigations or inspections conducted in accordance with these provisions to be posted on the department's Internet Web site and available in written form.

(4) The bill would require the Director of Health Services to establish and maintain a toll-free telephone number for the purpose of receiving complaints regarding regulated health facilities. It would also require every health facility to publish and post this number, as well as other information regarding communications with the department, including the department's Internet Web address. The bill would require, on and after July 1, 2007, every facility with an Internet Web site to include on this site a current hyperlink to the department's Internet Web site and a prescribed statement.

(5) Violation of provisions relating to the operation of health facilities is a crime. Therefore, by imposing new and revised requirements on health facilities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1266 of the Health and Safety Code is
2 amended to read:

3 1266. (a) Each new and renewal application for a license for
4 the health facilities listed below shall be accompanied by an
5 annual fee as set forth below.

6 (1) The annual fee for a general acute care hospital, acute
7 psychiatric hospital, special hospital, and chemical dependency
8 recovery hospital, based on the number of licensed beds, is as
9 follows:

10		
11	1–49 beds	\$460 plus \$8 per bed
12	50–99 beds	\$850 plus \$8 per bed
13	100 or more beds	\$1,175 plus \$8 per bed
14		

15 (2) The annual fee for a skilled nursing facility, intermediate
16 care facility, and intermediate care facility/developmentally
17 disabled, based on the number of licensed beds, is as follows:

18		
19	1–59 beds	\$2,068 plus \$26 per bed
20	60–99 beds	\$2,543 plus \$26 per bed
21	100 or more beds	\$3,183 plus \$26 per bed
22		

23 (3) The fees provided in this subdivision shall be adjusted,
24 commencing July 1, 1983, as proposed in the state department's
25 1983–84 fiscal year Health Facility License Fee Report to the
26 Legislature. Commencing July 1, 1984, fees provided in this
27 subdivision shall be adjusted annually, as directed by the
28 Legislature in the annual Budget Act.

29 (b) (1) By ~~March~~ February 17 of each year, the State
30 Department of Health Services shall make available to *the budget*
31 *and relevant policy committees of the Legislature and upon*
32 *request, to other* interested parties, ~~upon request~~, information
33 regarding the methodology and calculations used to determine
34 the fee amounts specified in this section, the staffing and systems
35 analysis required under subdivision (e), program costs associated

1 with the licensing provisions of this division, and the actual
2 numerical fee charges to be implemented on July 1 of that year.
3 This information shall specifically identify federal funds
4 received, but not previously budgeted for, the licensing
5 provisions of this division that are used to offset the amount of
6 General Fund money to be recovered through license fees. The
7 information shall also identify the purpose of federal funds
8 received for any additional activities under the licensing
9 provisions of this division that are not used to offset the amount
10 of General Fund money.

11 (2) The methodology and calculations used to determine the
12 fee amounts shall result in fee levels in an amount sufficient to
13 provide revenues equal to the sum of the following:

14 (A) The General Fund expenditures for the fiscal year
15 beginning on July 1 of that year, as specified in the Governor's
16 proposed budget, less license fees estimated to be collected in
17 that fiscal year by the licensing provisions of this division,
18 excluding licensing fees collected pursuant to this section.

19 (B) The amount of federal funds budgeted for the fiscal year
20 ending June 30 of that year for the licensing provisions of the
21 division, less federal funds received or credited, or anticipated to
22 be received or credited, during that fiscal year for that purpose.

23 The methodology for calculating the fee levels shall include an
24 adjustment that takes into consideration the actual amount of
25 license fee revenue collected pursuant to this section for that
26 prior fiscal year.

27 (3) If the Budget Act provides for expenditures that differ by 5
28 percent from the Governor's proposed budget, the Department of
29 Finance shall adjust the fees to reflect that difference and shall
30 instruct the State Department of Health Services to publish those
31 fees in accordance with subdivision (d).

32 (c) The annual fees determined pursuant to this section shall
33 be waived for any health facility conducted, maintained, or
34 operated by this state or any state department, authority, bureau,
35 commission, or officer, or by the Regents of the University of
36 California, or by a local hospital district, city, county, or city and
37 county.

38 (d) The department shall, within 30 calendar days of the
39 enactment of the Budget Act, publish a list of actual numerical
40 fee charges as adjusted pursuant to this section. This adjustment

1 of fees, any adjustment by the Department of Finance, and the
2 publication of the fee list shall not be subject to the rulemaking
3 requirements of Chapter 3.5 (commencing with Section 11340)
4 of Part 1 of Division 3 of Title 2 of the Government Code. If the
5 published list of fees is higher than that made available to
6 interested parties pursuant to subdivision (b), the affected health
7 facilities may choose to pay the fee in the amount presented at
8 the public hearing and to defer payment of the additional
9 increment until 60 days after publication of the list of fees
10 pursuant to this subdivision.

11 (e) Prior to the establishment of the annual fee, the department
12 shall prepare a staffing and systems analysis to ensure efficient
13 and effective utilization of fees collected, proper allocation of
14 departmental resources to licensing and certification activities,
15 survey schedules, complaint investigations, enforcement and
16 appeal activities, data collection and dissemination, surveyor
17 training, and policy development. *The analysis shall demonstrate*
18 *that the department has sufficient surveyors, other appropriate*
19 *health professionals, and administrative support personnel to*
20 *fulfill the requirements of state and federal law for timely*
21 *inspections, complaint investigations within the timeframes*
22 *specified by law and regulation, and timely investigations of*
23 *reports of adverse events. The analysis shall include information*
24 *on the proportion of inspections and investigations completed in*
25 *a timely manner within the preceding year, as well as the waiting*
26 *times for changes of ownership and the issuance of new licenses.*

27 The analysis under this subdivision shall be included in the
28 information made available pursuant to subdivision (b), and shall
29 include all of the following:

30 (1) The number of surveyors and administrative support
31 personnel devoted to the licensing and certification of health care
32 facilities.

33 (2) The percentage of time devoted to licensing and
34 certification activities for the various types of health facilities.

35 (3) The number of facilities receiving full surveys and the
36 frequency and number of followup visits.

37 (4) The number and timeliness of complaint investigations.

38 (5) Data on deficiencies and citations issued, and numbers of
39 citation review conferences and arbitration hearings.

40 (6) Training courses provided for surveyors.

(7) Other applicable activities of the licensing and certification division.

The analysis shall also include recommendations for administrative changes to streamline and prioritize the survey process, complaint investigations, management information systems, word processing capabilities and effectiveness, consumer information system, and surveyor training.

The annual staffing and systems analysis shall be presented to the Health Care Advisory Committee and the Legislature prior to the establishment and adoption of the annual fee.

(f) The annual fee for a congregate living health facility shall initially, and until adjusted by the Legislature in a Budget Act, be based on the number of licensed beds as follows:

1–3 beds	\$ 800
4–6 beds	\$1,000
7–10 beds	\$1,200
11–15 beds	\$1,500
16 or more beds	\$1,700

Commencing July 1, 1991, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual budget.

(g) The annual fee for a pediatric day health and respite care facility, as defined in Section 1760.2, shall initially, and until adjusted by the Legislature in a Budget Act, be based on the number of licensed beds as follows:

1–3 beds or clients	\$ 800
4–6 beds or clients	\$1,000
7–10 beds or clients	\$1,200
11–15 beds or clients	\$1,500
16 or more beds or clients	\$1,700 plus \$50 for each additional bed or client over 16 beds or clients

Commencing July 1, 1993, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual Budget Act.

1 (h) The department shall, in consultation with affected
2 provider representatives, develop a specific proposal by July 1,
3 1995, to do all of the following:

4 (1) Revise the health facility licensure fee methodologies in a
5 manner that addresses the fee methodology and subsidy issues
6 described in the State Auditor Report Number 93020, Issues 2
7 and 3.

8 (2) Ensure the validity and reliability of the data systems used
9 to calculate the license fee.

10 (3) Address the subsidy of licensing and certification activities
11 regarding health facilities for which the annual license fee is
12 waived.

13 (4) Develop a licensing and certification special fund into
14 which all fees collected by the state department, for health
15 facility licensing, certification, regulation, and inspection duties,
16 functions, and responsibilities, shall be deposited.

17 SEC. 2. Section 1279 of the Health and Safety Code is
18 amended to read:

19 1279. (a) Every health facility for which a license or special
20 permit has been issued, except a health facility, as defined in
21 subdivisions (b) to (k), inclusive, of Section 1250, that is certified
22 to participate either in the Medicare—~~program~~ *Program* under
23 Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social
24 Security Act, or in the—~~medicaid—program~~ *Medicaid Program*
25 under Title XIX (42 U.S.C. Sec. 1396 et seq.) of the federal
26 Social Security Act, or both, shall be periodically inspected by a
27 representative or representatives appointed by the state
28 department, depending upon the type and complexity of the
29 health facility or special service to be inspected. ~~If~~

30 (b) *If* the health facility is deemed to meet standards for
31 certification to participate in either the Medicare—~~program~~
32 *Program* or the—~~medicaid—program~~ *Medicaid Program*, or both,
33 because the health facility meets the standards of an agency other
34 than the Health Care Financing Administration, then, in order for
35 the health facility to qualify for the exemption from periodic
36 inspections provided in this section, the inspection to determine
37 that the health facility meets the standards of an agency other
38 than the Health Care Financing Administration shall include
39 participation by the California Medical Association to the same
40 extent as it participated in inspections as provided in Section

1 1282 prior to the date this section, as amended by S.B. 1779 of
2 the 1991–92 Regular ~~Session, becomes operative. Inspections~~
3 ~~Session.~~

4 (c) *Except as provided in subdivision (d), inspections shall be*
5 *conducted no less than once every two years and as often as*
6 *necessary to insure the quality of care being provided. However,*
7 *for*

8 (d) *For a health facility specified in subdivision (a) or (b) of*
9 *Section 1250, inspections shall be conducted no less than once*
10 *every three years, and as often as necessary to-insure ensure the*
11 *quality of care being provided. During*

12 (e) *During the inspection, the representative or representatives*
13 *shall offer such advice and assistance to the health facility as they*
14 *deem appropriate.*

15 ~~For~~

16 (f) *For acute care hospitals of 100 beds or more, the inspection*
17 *team shall include at least a physician, registered nurse, and*
18 *persons experienced in hospital administration and sanitary*
19 *inspections. During the inspection, the team shall offer such*
20 *advice and assistance to the hospital as it deems appropriate.*

21 (g) *Notwithstanding any other provision of law, the*
22 *department shall inspect for compliance with provisions of state*
23 *law and regulation during a state or federal periodic inspection,*
24 *including, but not limited to, an inspection required under this*
25 *section.*

26 SEC. 3. Section 1279.1 is added to the Health and Safety
27 Code, to read:

28 1279.1. (a) The director shall establish and maintain a
29 toll-free telephone number for the purpose of receiving
30 complaints regarding health facilities regulated under Section
31 1250. The toll-free telephone number shall be available 24 hours
32 a day, seven days a week.

33 (b) Every health facility shall publish the department's
34 toll-free telephone number, the department's TDD line for the
35 hearing and speech impaired, the facility's telephone number,
36 and the department's Internet Web address, on all written
37 statements, including billing statements, received by patients or
38 residents of these facilities. The department's telephone number,
39 the department's TDD line, the facility's telephone number, and
40 the department's Internet Web address shall be displayed by the

1 facility in each of these documents in 12-point boldface type in
2 the following regular type statement:

3
4 “The California Department of Health Services is responsible
5 for regulating hospitals, nursing homes, and other health
6 facilities. If you have a complaint against your hospital,
7 nursing home, or other health facility about the care you, a
8 family member, or other person receives, you may attempt to
9 resolve that complaint first with the hospital, nursing home
10 or health facility at (insert facility’s telephone number for
11 complaint handling). The department also has a toll-free
12 telephone number (1-800-236-9747) and a TDD line
13 (1-877-xxx-xxxx) for the hearing and speech impaired. The
14 department’s Internet Web site <http://www.dhs.ca.gov> has
15 complaint forms.

16 It is the public policy of the State of California to encourage
17 patients, nurses, and other health care workers to notify the
18 Department of Health Services and other government entities
19 of suspected unsafe patient care and conditions and that if the
20 facility attempts to discriminate or retaliate, that facility may
21 be subject to fines of as much as \$25,000.”

22
23 (c) Every facility licensed under Section 1250 shall post in the
24 lobby, the admitting office, and other locations as may be
25 determined by the department a notice in 20-point type stating:

26
27 “The California Department of Health Services is responsible
28 for regulating hospitals, nursing homes, and other health
29 facilities. If you have a complaint against the hospital,
30 nursing home, or other health facility about the care you, a
31 family member, or other person receives, you may attempt to
32 resolve that complaint first with the hospital, nursing home
33 or health facility at (insert facility’s telephone number for
34 complaint handling). The department also has a toll-free
35 telephone number (1-800-236-9747) and a TDD line
36 (1-877-xxx-xxxx) for the hearing and speech impaired. The
37 department’s Internet Web site <http://www.dhs.ca.gov> has
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40 patients, nurses, and other health care workers to notify the

1 Department of Health Services and other government entities
2 of suspected unsafe patient care and conditions and that if the
3 facility attempts to discriminate or retaliate, that facility may
4 be subject to fines of as much as \$25,000”
5

6 (d) The department may refer any complaint issue that does
7 not pertain to compliance with this chapter to the Department of
8 Managed Health Care, the Department of Insurance, the
9 California Department of Aging, the federal Centers for
10 Medicare and Medicaid Services, or any other appropriate
11 governmental entity for investigation and resolution.

12 SEC. 4. Section 1279.2 is added to the Health and Safety
13 Code, to read:

14 1279.2. (a) On and after July 1, 2007, every facility with an
15 Internet Web site shall include on this Internet Web site a current
16 hyperlink to the State Department of Health Services Internet
17 Web site and a statement in a legible font that is clearly
18 distinguishable from other content on the page and is in a legible
19 size and type, that contains the following language:
20

21 “The California Department of Health Services is responsible
22 for regulating hospitals, nursing homes, and other health
23 facilities. If you have a complaint about the care you receive
24 from a hospital, nursing home, or other health facility, you
25 may complain directly to the Department of Health Service
26 at 1-800-236-9747. Using this complaint process does not
27 prevent you from taking legal action. The department also a
28 TDD line (1-877-xxx-xxxx) for the hearing and speech
29 impaired. The department’s Internet Web site
30 <http://www.dhs.ca.gov> has complaint forms. It is the public
31 policy of the State of California to encourage patients,
32 nurses, and other health care workers to notify the
33 Department of Health Services and other government entities
34 of suspected unsafe patient care and conditions and that if the
35 facility attempts to discriminate or retaliate, that facility may
36 be subject to fines of as much as \$25,000.”
37

38 The facility shall update the URL, hyperlink, and telephone
39 numbers in this statement as necessary.

1 (b) A facility that utilizes a hardware system that does not
2 have the minimum system requirements to support the software
3 necessary to meet the requirements of this section is exempt from
4 these requirements until January 1, 2009.

5 (c) For purposes of this section, “hyperlink” means a special
6 HTML code that allows text or graphics to serve as a link that,
7 when clicked on, takes a user to another place in the same
8 document, to another document, or to another Web site or Web
9 page.

10 (d) This section shall apply to any facility licensed pursuant to
11 Section 1250 that maintains an Internet Web site available to the
12 public.

13 SEC. 5. Section 1279.3 is added to the Health and Safety
14 Code, to read:

15 1279.3. (a) In any case in which a report from a facility or a
16 written or oral complaint involves a health facility licensed
17 pursuant to subdivision (a), (b), or (f) of Section 1250 that creates
18 a threat of imminent danger of death or serious bodily harm, the
19 department shall make an onsite inspection or investigation
20 within 48 hours or two business days, whichever is greater, of the
21 receipt of the complaint, and shall complete that investigation
22 within 45 days.

23 (b) In any case in which there is an oral or written complaint
24 or a report from a facility licensed pursuant to subdivision (a),
25 (b), or (f) of Section 1250 and the department is able to
26 determine from the information available to it that there is no
27 threat of imminent danger of death or serious bodily harm to that
28 patient or other patients, the department shall initiate an
29 investigation within ten days and complete an investigation of the
30 report within 45 days.

31 (c) The department shall notify the complainant and licensee
32 in writing of the department’s determination as a result of an
33 inspection or report made pursuant to this section.

34 (d) The department shall provide information regarding the
35 outcome of the inspection or investigation made pursuant to this
36 section both on its Web site and in writing in a manner that is
37 readily accessible to consumers in all parts of the state and in a
38 manner that protects patient confidentiality.

39 (e) For purposes of this section, “complaint” means any oral or
40 written notice to the department, other than a report from the

1 health facility, of an alleged violation of applicable requirements
2 of state or federal law, or an allegation of facts that might
3 constitute a violation of applicable requirements of state or
4 federal law.

5 SEC. 6. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the
10 penalty for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition of a
12 crime within the meaning of Section 6 of Article XIII B of the
13 California Constitution.